

# Civil Rights

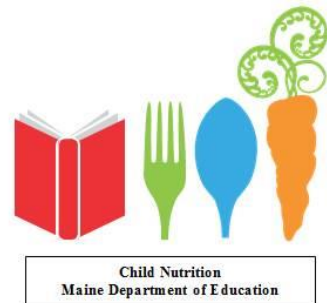
# FNS 113-1

“The purpose of this Instruction is to establish and convey policy and provide guidance and direction to the United States Department of Agriculture (USDA) Food and Nutrition Service (FNS) and its recipients and customers, and ensure compliance with and enforcement of the prohibition against discrimination in all FNS nutrition programs and activities, whether federally funded in whole or not.”



# Training Needs

- All staff and volunteers must be trained annually
- Prepare staff and volunteers on how to respond to a request to file a complaint
- Training must be specific to child nutrition programs
- Training is not complete without training documentation



# Civil Rights Training

- Subrecipient agencies are responsible for training staff and volunteers who interact with applicants or participants on an **annual basis**
- New employees before participating in program activities
- Volunteers must receive training appropriate to their roles and responsibilities



# Civil Rights Training

All staff should receive training on all aspects of Civil Rights compliance, including:

- Collection and use of data
- Effective public notification systems
- Complaint procedures
- Compliance review techniques
- Resolution of noncompliance
- Requirements for reasonable accommodation of persons with disabilities
- Requirements for language assistance
- Conflict resolution
- Customer service





# Equal Access

- To ensure all children are served regardless of color, race, national origin, sex, age, disability, religion, ancestry, and sexual orientation
- All children have equal access to services and facilities
- Reasonable accommodations are made for persons with disabilities and for those needing language assistance



# What is Discrimination Federally?

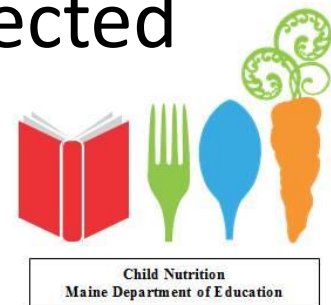
For Federal Food and Nutrition Service programs, complaints are based on one or more of the six Federally protected bases:

- 1) Race
- 2) Color
- 3) National Origin
- 4) Age
- 5) Sex
- 6) Disability



# Protected Classes Under Maine State Law

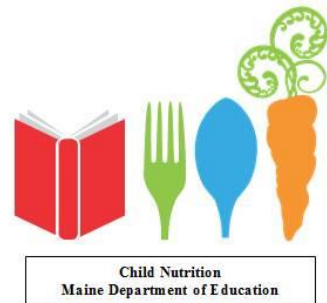
- Adds protections for persons with regard to:
  - Religion
  - Ancestry
  - Sexual orientation
- All Federal Child Nutrition Programs operating in public school districts in the State of Maine must adopt both Federal and State protected classes





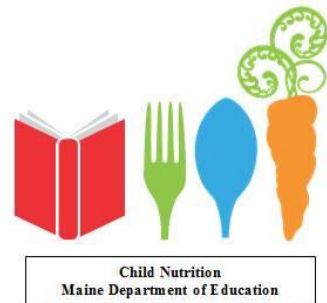
# Types of Discrimination

- Differential Treatment
- Disparate Impact
- Reprisal/Retaliation



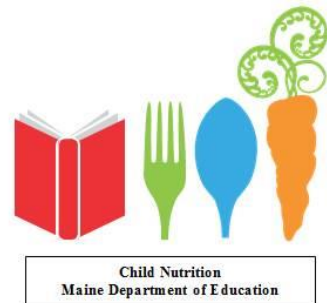
# Differential Treatment

- Refusing service
- Using different eligibility criteria for certain applicants
- Treating recipients differently based on protected class



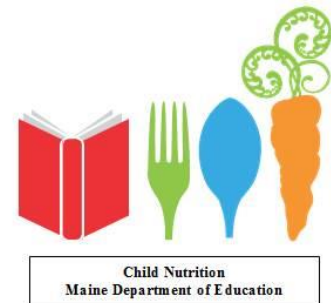
# Disparate Impact

- Discrimination that is not intentional, but has that effect
- A rule, policy, or practice may be neutral on its surface, but impacts a protected class disproportionately



# Retaliation

- Negative treatment of someone because they filed a complaint or complained about discrimination or testified as a witness in a complaint investigation
- Could involve denial of service, harassment, intimidation, etc.
- Retaliatory behavior can result in a finding of discriminatory retaliation even if the original complaint filed by the individual is baseless



# Civil Rights Compliance

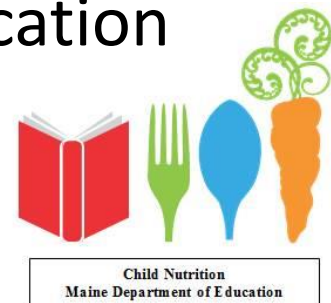
In order to be in compliance with USDA Civil Rights regulations, you must adhere to four requirements:

1. Public Notification
2. Include Non-Discrimination Statement on all publications
3. Have a plan to address Limited English Proficiency requirements
4. Educate staff and volunteers annually on Civil Rights and customer service, and how to respond to a request to file a Civil Rights complaint



# Racial/Ethnic Data Collection

- **Purpose:** To determine how effectively FNS programs are reaching potentially-eligible persons and beneficiaries
- Applicants shall be assured that the information is required for and used for statistical purposes only and has no effect on eligibility criteria
- All income application information is confidential
- Data should be collected at the point of application



# Public Notification

## **All FNS assistance programs must include a public notification system**

The purpose of this system is to inform applicants, participants, and potentially-eligible persons of:

- Program availability
- Program rights and responsibilities
- The policy of nondiscrimination and
- The procedure for filing a complaint



# Elements of Public Notification

## **Must:**

- Make program information available to the public upon request
- Prominently display the “And Justice for All” poster
- Inform potentially eligible persons, applicants, participants and grassroots organizations of programs or changes in programs
- Convey the message of equal opportunity in all photos and other graphics that are used to provide program or program-related information
- Provide appropriate information in alternative formats for persons with disabilities and in the appropriate language(s) for LEP persons

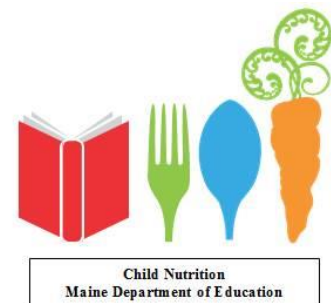




# Methods of Public Notification

## Other methods of public notification (optional):

- Bulletins
- Letters/Leaflets/Brochures
- Internet/Computer-based Applications



# Nondiscrimination Statement

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA.

Persons with disabilities who require alternative means of communication for program information (e.g. Braille, large print, audiotope, American Sign Language, etc.), should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program complaint of discrimination, complete the [USDA Program Discrimination Complaint Form](#), (AD-3027) found online at: [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html), and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

- (1) mail: U.S. Department of Agriculture  
Office of the Assistant Secretary for Civil Rights  
1400 Independence Avenue, SW  
Washington, D.C. 20250-9410;
- (2) fax: (202) 690-7442; or
- (3) email: [program.intake@usda.gov](mailto:program.intake@usda.gov).

This institution is an equal opportunity provider.



# Nondiscrimination Statement *(Spanish)*

De conformidad con la Ley Federal de Derechos Civiles y los reglamentos y políticas de derechos civiles del Departamento de Agricultura de los EE. UU. (USDA, por sus siglas en inglés), se prohíbe que el USDA, sus agencias, oficinas, empleados e instituciones que participan o administran programas del USDA discriminen sobre la base de raza, color, nacionalidad, sexo, discapacidad, edad, o en represalia o venganza por actividades previas de derechos civiles en algún programa o actividad realizados o financiados por el USDA.

Las personas con discapacidades que necesiten medios alternativos para la comunicación de la información del programa (por ejemplo, sistema Braille, letras grandes, cintas de audio, lenguaje de señas americano, etc.), deben ponerse en contacto con la agencia (estatal o local) en la que solicitaron los beneficios. Las personas sordas, con dificultades de audición o discapacidades del habla pueden comunicarse con el USDA por medio del Federal Relay Service [Servicio Federal de Retransmisión] al (800) 877-8339. Además, la información del programa se puede proporcionar en otros idiomas.

Para presentar una denuncia de discriminación, complete el [Formulario de Denuncia de Discriminación del Programa del USDA](http://www.ascr.usda.gov/complaint_filing_cust.html), (AD-3027) que está disponible en línea en: [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html) y en cualquier oficina del USDA, o bien escriba una carta dirigida al USDA e incluya en la carta toda la información solicitada en el formulario. Para solicitar una copia del formulario de denuncia, llame al (866) 632-9992. Haga llegar su formulario lleno o carta al USDA por:

- (1) correo: U.S. Department of Agriculture  
Office of the Assistant Secretary for Civil Rights  
1400 Independence Avenue, SW  
Washington, D.C. 20250-9410;
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Esta institución es un proveedor que ofrece igualdad de oportunidades.



# Nondiscrimination Statement

## USDA Nondiscrimination Statement (NDS)

Must get State Agency approval prior to use of the short version.

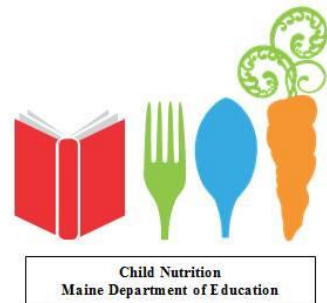
**"This institution is an equal opportunity provider."**

**"Esta institución es un proveedor que ofrece igualdad de oportunidades." (Spanish)**



# Maine Nondiscrimination Statement

This institution is an equal opportunity provider. In accordance with State law this institution is prohibited from discrimination on the basis of race, color, national origin, sex, age, sexual orientation or disability. (Not all prohibited bases apply to all programs)



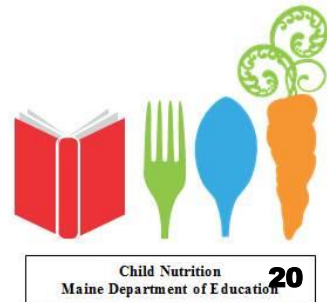
## “And Justice for All” Poster

- Display the poster in a prominent location for all to view
- AD-475A
  - Required version for all Supplemental Nutrition and School Meals programs
  - Poster reflects new graphic



# Complaints of Discrimination

- Complaints shall be accepted and forwarded to the USDA/FNS Regional Office of Civil Rights
- Maine Department of Education Child Nutrition must be notified
- Complaints must be filed within 180 days from the alleged act of discrimination
- Complaints may be written, verbal, or anonymous
- State agencies or subrecipient agencies may develop their own complaint forms, but the use of such forms cannot be a pre-requisite for acceptance
- A **separate** Civil Rights complaint log shall be maintained by the State and subrecipient agency
- Confidentiality is extremely important and must be maintained



# Complaints of Discrimination

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- (1) mail: U.S. Department of Agriculture  
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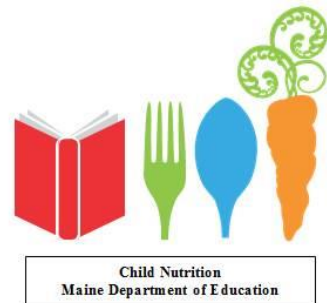




# Maine Human Rights Commission

## Filing a complaint of discrimination

Complaints of discrimination can be filed at the office of the Maine Human Rights Commission, 51 State House Station, Augusta, Maine 04333-0051



# Maine Human Rights Commission

If you wish to file a discrimination complaint, please select [File a Complaint](#) and complete an intake questionnaire. Before completing this process it may be helpful to review relevant links under Guidance. If you are not sure how the Maine Human Rights Act may apply to, you please review the publication "[What It Is! How It Works!](#)".



# Types of Complaints

## Customer Service Complaint

- There has been a break down in service, and can result from a lack of customer focus, being insensitive, or demonstrating a lack of understanding

## Civil Rights Complaint/Discrimination

- Characterized by the complainant verbalizing or submitting in writing that they feel they have been treated unfairly or discriminated against due to a protected class basis



# Compliance Reviews

- Examine the activities of State agencies and subrecipients to determine Civil Rights compliance
- FNS Civil Rights and Program staff review State agencies
- FNS staff and State agencies review subrecipients
- Significant findings must be provided in writing to the reviewed entity and to FNS



# Pre-award Compliance Reviews

State agencies and subrecipient agencies must be in compliance with Civil Rights requirements prior to approval for Federal financial assistance

# Routine/Post-Award Compliance Reviews

## FNS and State agencies must conduct routine compliance reviews

- Do printed materials contain the nondiscrimination statement?
- Is the *And Justice For All* poster displayed appropriately?
- Are program informational materials available to all?
- Is data on race and ethnicity collected appropriately?
- How are applicants and participants advised of their right to file a Civil Rights complaint of discrimination?
- Are reasonable accommodations appropriately made for people with disabilities?



# Resolution of Non-Compliance

- A factual finding that any civil rights requirement, as provided by law, regulation, policy, instruction, or guidelines, is not being adhered to by a State agency, subrecipient agency, or a local site
- Steps must be taken immediately to obtain voluntary compliance
- A finding's effective date is the date of notice to the reviewed entity



# Accommodating Disabilities

What is the definition of *disability*?

- A person who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.
- Major life activity means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.
- functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, and reproductive functions. (ADA Amendments Act of 2008)





# Accommodating Disabilities

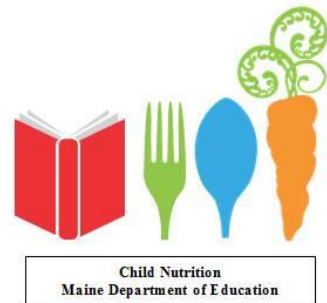
- Members of the public are provided accommodations in order to access program information, applications and assistance (i.e. Braille, large print, and audio tape)
- Providing qualified sign language interpreters for persons with hearing disabilities may be necessary to effectively communicate with these applicants and participants
- Disability is a protected class and complaints of discrimination must be addressed properly



# LEP Language Assistance

## Limited English Proficiency (LEP):

Individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English



# LEP Language Assistance

All organizations receiving Federal financial assistance via participation in Child Nutrition Programs must take “reasonable steps” to ensure meaningful access to their programs and activities by persons with Limited English Proficiency (LEP)



# Language Translations for Program Materials

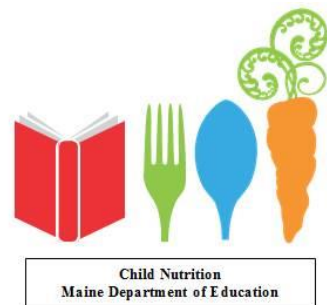
- Household meal benefit applications in 49 other languages can be found at:  
[www.fns.usda.gov/cnd/FRP/frp.process.htm](http://www.fns.usda.gov/cnd/FRP/frp.process.htm)



# Language Interpreters

Volunteers may be used, but should understand ethics for using interpreters

- Example: Spanish teacher could assist a household in completing an application but would need to be trained on the importance of keeping all information received from the household confidential



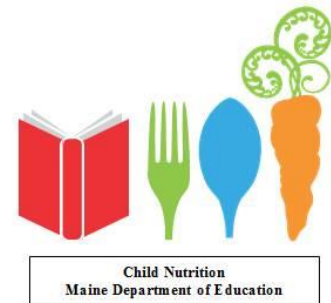
# What to Consider When Determining “Reasonable Steps”

- Number and proportion of LEP persons served or encountered in eligible population
  - The greater the number = the higher the need
  - Frequency with which LEP individuals come in contact with program
- Nature and importance of program, activity, or service
  - Will denial of service cause a serious or life-threatening implication for potential participants?
- Resources available to the recipient/costs
  - Accessibility of a translator for applications, etc.
  - Availability of materials in various languages



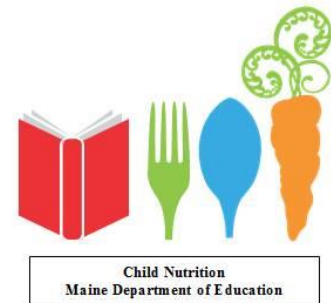
# Complaints and Conflict Resolution

- Be patient, be polite, and breathe
- Avoid sarcasm
- Be empathetic. Understand that people may not know the rules or understand how programs work. They may feel uncomfortable coming to ask for help.
- Smile when appropriate - help people to feel welcome and valued
- Explain policy and let them know you will get in trouble if you do anything that violates the rules
- Don't be afraid to apologize
- Don't feel you need to have the last word
- File a complaint form, if needed



# Customer Service

- All students must be allowed equal opportunities to participate in CN programs regardless of race, color, national origin, sex, age, disability, or other State protected classes
- All participants must be treated in the same manner (i.e. seating arrangements, serving lines, services and facilities, assignment of eating periods, methods of selection for application approval and verification processes)





# Things to Consider



- Am I treating this person in the **same** manner that I treat all others?
- Have I given this person the opportunity to clarify all relevant factors/inconsistencies?
- Have I told this person exactly what information I need for the intake process?
- Have I provided the person with information he or she needs to make necessary decisions?



# Denial of Meals

**USDA policy prohibits the denial of meals as a disciplinary action against any student who is enrolled in a school that participates in the Child Nutrition Programs, including:**

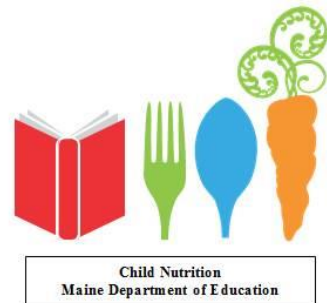
- Disciplinary actions that directly result in loss or denial of meals
- Requiring a child to work for his/her meals

*Disciplinary actions that indirectly result in the loss of meals (i.e. student is suspended from school) are an exception to this rule*



# Verification of Citizenship or Immigration Status

This should never give rise to discrimination



# Maine Contact Information

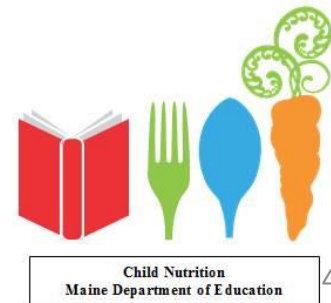
Maine Human Rights Commission  
51 State House Station  
Augusta, Maine 04333-0051  
Telephone (and via Relay): 207-624-6290  
Facsimile: 207-624-8729  
Website: [www.maine.gov/mhrc](http://www.maine.gov/mhrc)



# USDA Contact Information

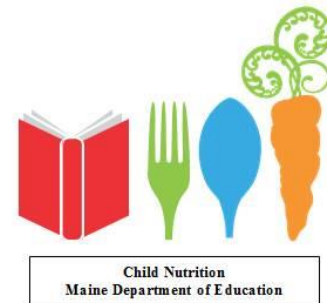
Steve Miliano  
Civil Rights Director, Northeast Regional Office  
Food and Nutrition Service  
10 Causeway St. Suite 501  
Boston, MA 02222  
POC [stephen.miliano@fns.usda.gov](mailto:stephen.miliano@fns.usda.gov)

Office: (617) 565-642  
FAX: (617) 565-6473



# Resources

- Maine Department of Education Child Nutrition Civil Rights page:  
<http://www.maine.gov/doe/nutrition/statement.html>
- Civil Rights Laws, Regulations, Executive Orders and related Other Guidance:  
<https://www.fns.usda.gov/cr/civil-rights-laws-regulations-executive-orders-and-related-other-guidance>
- USDA Limited English Proficiency (LEP) links:  
<https://www.fns.usda.gov/cr/limited-english-proficiency-lep>
- USDA Program Discrimination Complaint procedure:  
<https://www.ascr.usda.gov/filing-program-discrimination-complaint-usda-customer>



# Next Child Nutrition Webinar

## **A Review of Lunch Meal Pattern and Offer vs. Serve**

Tuesday, December 19 at 1:30PM

